

James R. Condo (#005867)  
SNELL & WILMER L.L.P.  
One Arizona Center  
400 E. Van Buren, Suite 1900  
Phoenix, Arizona 85004-2202  
Telephone: 602.382.6000  
Facsimile: 602.382.6070  
jcondo@swlaw.com

Richard B. North, Jr. (admitted *pro hac vice*)  
Georgia Bar No. 545599  
Matthew B. Lerner (admitted *pro hac vice*)  
Georgia Bar No. 446986  
NELSON MULLINS RILEY & SCARBOROUGH LLP  
201 17th Street, NW / Suite 1700  
Atlanta, GA 30363  
Telephone: (404) 322-6000  
Telephone: (404) 322-6050  
richard.north@nelsonmullins.com  
matthew.lerner@nelsonmullins.com

*Attorneys for Defendants*  
*C. R. Bard, Inc. and*  
*Bard Peripheral Vascular, Inc.*

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

IN RE: Bard IVC Filters Products  
Liability Litigation

No. 2:15-MD-02641-DGC

**DEFENDANTS C. R. BARD, INC. AND  
BARD PERIPHERAL VASCULAR,  
INC.'S RESPONSE REGARDING  
BCM'S MOTION AND  
MEMORANDUM IN SUPPORT TO  
FILE DECLARATION AND EXHIBITS  
UNDER SEAL**

(Assigned to the Honorable David G.  
Campbell)

The Law Offices of Ben C. Martin and Martin/Baughman ("BCM") have filed a motion (Doc. 22164) asking this Court to stay distribution of certain assessments to the common benefit fund established in this multidistrict litigation proceeding ("MDL"), pending their appeal of this Court's May 20, 2022 order (Doc. 22162). That order denied BCM's motion to reduce and/or eliminate their obligation to pay assessments to the

1 common benefit fund. In support of the motion to stay, BCM has filed a declaration of  
2 Mr. Martin, accompanied by exhibits, and a motion to seal the declaration (including  
3 attachments. (Doc. 22165). As noted in previous filings, the Defendants C. R. Bard, Inc.  
4 and Bard Peripheral Vascular, Inc. (collectively “Bard”) do not have a direct stake in this  
5 apparent dispute between Mr. Martin’s firms and the Plaintiffs’ Executive Committee in  
6 this MDL. However, some aspects of the motion to stay and related motion to seal do in  
7 fact impact Bard. Bard is therefore filing this short brief to highlight its concern.

8 Although Bard has not seen the actual declaration and its attachments, BCM’s  
9 motions indicate that the documents identify 304 clients of BCM *and their allocated*  
10 *settlement amounts*. (Doc. 22164 at p. 4; Doc. 22165 at p. 1). If that description is  
11 accurate, the disclosure of that information, even in a sealed filing, violates the Master  
12 Settlement Agreement between BCM and Bard. That agreement prohibits the parties  
13 from revealing the settlement amounts to be paid to the claimants, except under very  
14 specific and limited circumstances (none of which apply here). BCM acknowledges that  
15 fact, noting that “the Declaration itself contains settlement amounts which are confidential  
16 per the settlement agreement.” (Doc. 22165 at p. 1).

17 BCM’s filing of the Declaration containing that confidential information is a clear  
18 violation of the firms’ obligations under the settlement agreement. Bard strongly objects  
19 to BCM’s disregard of their obligations, and will address BCM’s breach of the agreement  
20 directly with those firms. In the meantime, Bard respectfully urges this Court to ensure  
21 that the settlement amounts remain confidential. The confidentiality provisions in the  
22 agreements are vital components of the settlements. Bard could not have effectively  
23 settled thousands of cases in the mass tort context if the value of individual settlements  
24 was public knowledge. Hence, Bard respectfully asks this Court to mitigate the harm  
25 caused by BCM’s violation of the agreement, and grant the motion to seal.

1 DATED this 14<sup>th</sup> day of June, 2022.

2 s/ Richard B. North, Jr.  
3 Richard B. North, Jr.  
4 Georgia Bar No. 545599  
5 Matthew B. Lerner  
6 Georgia Bar No. 446986  
7 NELSON MULLINS RILEY & SCARBOROUGH, LLP  
8 Atlantic Station  
9 201 17th Street, NW / Suite 1700  
10 Atlanta, GA 30363  
11 PH: (404) 322-6000  
12 FX: (404) 322-6050  
13 richard.north@nelsonmullins.com  
14 matthew.lerner@nelsonmullins.com

15 James R. Condo (#005867)  
16 SNELL & WILMER L.L.P.  
17 One Arizona Center  
18 400 E. Van Buren  
19 Phoenix, AZ 85004-2204  
20 PH: (602) 382-6000  
21 JCondo@swlaw.com

22 **Attorneys for Defendants C. R. Bard, Inc. and**  
23 **Bard Peripheral Vascular, Inc.**

**CERTIFICATE OF SERVICE**

I hereby certify that on June 14, 2022, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to all attorneys of record.

s/ Richard B. North, Jr.  
Richard B. North, Jr.